

APPEAL PROCEDURES

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

The following appeal procedures are established in accordance with Section 225.13 of the Summer Food Service Program regulations and are to be followed by any sponsor/applicant seeking a review or an appeal for any of the following: a denial of an application for participation; a denial of request by a sponsor for an advance payment; a denial of a claim by a sponsor for reimbursement (except for late submission); a State agency's refusal to forward to FNS an exception request by the sponsor for payment of a late claim; a claim against a sponsor for remittance of a payment; the termination of the sponsor or a site; a denial of a sponsor's application for a site; a denial of a food service management company's application for registration, or revocation of that registration.

1. The Sponsor, Applicant, or Food Service Management Company will be advised by the State Agency in writing, by certified mail-return receipt requested, of the action being proposed or taken and the basis for the action. The notice will include a statement indicating that the Sponsor, Applicant, or Food Service Management Company has the right to appeal the adverse action of the State Agency within ten calendar days of receipt of the notice of adverse action. The correspondence will be considered received by the Sponsor, Applicant, or Food Service Management Company within 5 days of the postmarked sent date of the certified mail return receipt or the actual date of the return receipt, whichever is earlier.
2. Any written request for review or appeal shall be submitted by the appellant and post marked not later than 10 calendar days from the date the appellant received/should have received the notice of action.
3. The appellant must specify in writing whether they are requesting:
 - a) a review of the findings **or**
 - b) a hearing to dispute the findings.
4. The appellant shall be advised of the opportunity to review any information upon which the action was based.
5. The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the request for review, must clearly identify the State Agency action being appealed, and must include a photocopy of the notice of action issued by the State Agency.
6. A hearing shall be held by the review official in addition to, or in lieu of, a review of

written information submitted by the appellant only if the appellant so specifies in the letter of request for review. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing will constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. The State Agency will be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official.

7. If the appellant has requested a hearing, the appellant and the State Agency shall be provided with at least five days advance written notice of action, sent by certified mail, return receipt requested, of the time and place of the hearing.
8. The hearing shall be held within fourteen days of the date of receipt of the request for review, but, where applicable, not before the appellant's written documentation is received.
9. The review official shall be someone independent of the original decision-making process.
10. The review official shall make a determination based on information provided by the State Agency, the appellant, and on program regulations.
11. Within five working days after the appellant's hearing, or within five working days after receipt of written documentation if no hearing is held, the review official must make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail-return receipt requested.
12. The State Agency's action will remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the Program during an appeal of termination, and if the appeal results in an overturning of the State Agency's decision, reimbursement will be paid for meals served during the appeal process. However, such continued operation under the Program will not be allowed if the State Agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or the site has been terminated for this reason, the State Agency will so specify in its notice of action.
13. The determination by the State review official is the final administrative determination to be afforded to the appellant.